

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1467 of 1998

in

SPECIAL CIVIL APPLICATION No 9189 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER

and

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

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PARMAR MIKHAEL AGAPIT

Versus

AMTS

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Appearance:

MR VB GHARANIYA for Appellant

MR HS MUNSHAW for Respondent No. 1

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CORAM : MR.JUSTICE C.K.THAKKER and

MR.JUSTICE C.K.BUCH

Date of decision: 05/07/1999

ORAL JUDGEMENT [ PER : C.K.THAKKAR, J ]

Admitted. Mr. Munshaw, learned counsel appears

and waives service of notice of admission on behalf of the respondent. In the facts and circumstances, the matter is taken up for final hearing today.

This petition is filed against dismissal of Special Civil Application No. 9189 of 1998 by the learned Single Judge on December 1, 1998.

The appellant was the original petitioner. He approached this court for an appropriate writ, order or direction directing the Ahmedabad Municipal Transport Service ( "AMTS" for short ) to regularise his services as Time Clerk- cum -Time Keeper Helper as per the policy of the Corporation and also to pay salary to the petitioner on the principle of "equal pay for equal work " from the date of his appointment till he is regularly appointed as Time Clerk-cum-Time Keepr Helper.

When the matter was placed for hearing before the learned Single Judge, the learned Single Judge dismissed it, inter alia, observing that " there is no difference in pay-scale and grade of Conductors and Time Clerk-cum-Time Keeper Helper " and as such there is no question of reversion " when instead of working as Time Clerk -cum- Time Keeper Helper, the petitioner was asked to work as a Conductor.

Our attention was invited by Mr. Gharania, learned counsel for the appellant that the learned Single Judge was not right in observing that there is no difference in the pay scale and grade of two cadres. In fact, there is difference in the pay scale of Conductors and Time Clerk-cum-Time Keeper Helper and pay-scale of Time Clerk -cum- Time Keeper Helper is higher than the pay-scale of Conductors.

In view of the above fact, in our opinion, the order passed by the learned Single Judge deserves to be quashed and set aside and is accordingly set aside. The matter will now go back to the learned Single Judge for passing appropriate orders.

We may state that since we are disposing of this appeal only on the ground that pay-scales of Conductors and Time Clerk-cum-Time Keeper Helper are different and the learned Single Judge was not right on treating pay scales as equal. The learned Single Judge will now pass an appropriate order on its own merits.

Letters Patent Appeal is allowed. In the facts and circumstances, no order as to costs.

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